IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

THAD ROBERTS §

v. § CIVIL ACTION NO. 6:08cv348

MAXEY CERLIANO §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE AND ENTERING FINAL JUDGMENT

The Plaintiff Thad Roberts, proceeding *pro se*, filed this lawsuit complaining of alleged violations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On October 6, 2008, the Magistrate Judge ordered Roberts to furnish a certified *in forma pauperis* data sheet, as required by 28 U.S.C. §1915(b). When Roberts did not comply with this order or respond in any way, the Magistrate Judge issued a Report on November 24, 2008, recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. A copy of this Report was sent to Roberts at his last known address, return receipt requested, but was returned to the Court because Roberts was no longer there and had left no forwarding address. To date, no objections have been received to the Report of the Magistrate Judge; accordingly, Roberts is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. <u>Douglass</u> v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings and the Report of the Magistrate Judge in this case and has determined that this Report is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED without prejudice for failure to prosecute or to obey an order of the Court. Rule 41(b), Fed. R. Civ. P. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So ORDERED and SIGNED this 15th day of December, 2008.

LEONARD DAVIS

UNITED STATES DISTRICT JUDGE